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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPELLANTS' REPLY BRIEF

APPELLANTS:	Alto STEMMER et al.	CONFIRMATION NO. 6144
SERIAL NO.:	09/710,903	GROUP ART UNIT: 2174
FILED:	November 14, 2000	EXAMINER: Peng Ke
TITLE:	"METHOD FOR ALTERING A PROTOCOL IN A MAGNETIC RESONANCE APPARATUS"	

MAIL STOP APPEAL BRIEF-PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

S I R:

In accordance with the provisions of 37 C.F.R. §1.193(b), Appellants herewith submit a Reply Brief in response to the Examiner's Answer filed April 21, 2004.

At pages 5 and 6 of the Examiner's Answer, the Examiner provided responses to arguments raised by the Appellants in Appellants Main Brief, namely that the Kuc et al reference does not disclose the usage of a magnetic resonance apparatus, and that the Kuc et al reference does not teach the manipulation of parameters that are used to obtain the data.

In response to the first point, the Examiner stated the Kuc et al reference includes an apparatus that provides magnetic resonance data, as indicated in the Abstract. Appellants acknowledge that the Abstract of the Kuc et al reference states that the biomagnetic imaging method disclosed therein can be combined with a system for providing magnetic resonance image data by means of a superimposed display of an MRI image and a biomagnetic image. All of the portions of the Kuc et

al reference relied upon by the Examiner, however, relate exclusively to the generation of the biomagnetic image, using SQUIDs. The use of the SQUIDs has absolutely nothing whatsoever to do with the magnetic resonance image, which is obtained separately. The mere fact that the magnetic resonance image can be superimposed with the biomagnetic image does not justify any "transfer" of the teachings in the Kuc et al reference that are exclusively directed to the generation of the biomagnetic image, over to the magnetic resonance image. As extensively discussed in the present Appeal Brief, a magnetic resonance image is produced in a completely different manner from a biomagnetic image, and there is absolutely no relationship, either on a physical basis or a conceptual basis, between these two different types of images, and the different physical phenomena that underlie the generation of these two different types of images.

As to the second point, the Examiner stated that the claims on appeal describe only the manipulation of parameters using a graphical user interface, and do not include any method that describes how the magnetic resonance data is taken from a magnetic field. This statement further underlies Appellants assumption that the Examiner has no idea as to how a magnetic resonance image is produced, since the statement that "magnetic resonance data is taken from a magnetic field" is non-sensical and meaningless. As also extensively discussed in the Appeal Brief, although magnetic fields are used in the generation of magnetic resonance data, the magnetic resonance signal embodying the magnetic resonance data is an RF signal, and the obtaining of magnetic resonance data has nothing whatsoever to do with measuring a magnetic field, or "taking" data from a magnetic field.

Moreover, Appellants are entitled to use in their claim language well known terms of art which have standardized, well-understood meanings, without burdening the claim with all of the underlying details for such well-understood terms. The term "protocol for operating a magnetic resonance apparatus" has the well-understood meaning of defining a sequence of radio-frequency pulses and gradient pulses in an appropriate combination for generating magnetic resonance data. Hundreds of such sequences are known and used, and Appellants should not have to specify any specific protocol. Of course, to the extent that it is necessary to set forth the details of such a protocol in order to describe the inventive features of the claim, this has been done in claim 1 by reference to the first and second parameters. If a method claim were directed, for example, to a method for driving a motor vehicle, it would not be necessary to include in such a claim all the details of how a motor vehicle operates. If the method were specifically directed to a way of making a right turn, for example, in such a motor vehicle, Appellants acknowledge it would be necessary to set forth sufficient details of the vehicle operation associated with making a right turn, but no more details are necessary. This is the same level of detail set forth in claim 1 on appeal.

More importantly, however, even if claim 1 were directed to a generic (i.e. unnamed) protocol having first and second parameters, the Kuc et al reference still would not be applicable to such a method. This is because, even in generic form, the method set forth in claim 1 is directed to steps that are undertaken *before* data are acquired using such a protocol, whereas the Kuc et al reference provides only teachings that are applicable *after* the data have already been acquired. Even if the Examiner's statements regarding the lack of patentable weight to be given to

obtaining magnetic resonance data in the context of claim 1 on appeal are completely accepted, the Kuc et al reference still would be completely irrelevant to the method steps of claim 1.

Reversal of the rejection is therefore respectfully requested.

Submitted by,

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CERTIFICATE OF MAILING

I hereby certify that an original and two copies of this correspondence are being deposited with the United States Postal Service as First Class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on June 21, 2004.

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